

HOUSE BILL 869

E2, D3

8lr1556
CF SB 271

By: **Delegates Carter and Vallario (By Request – Committee to Revise Article 27 – Crimes and Punishments) and Delegates Anderson, Barnes, Conaway, Frank, Lee, McComas, Oaks, Rosenberg, Shank, Simmons, and Smigiel**

Introduced and read first time: February 6, 2008

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2008

CHAPTER _____

1 AN ACT concerning

2 **Admissibility of Evidence – Intercepted Communications – Electronic**

3 FOR the purpose of repealing a provision of law excluding a certain radio portion of
4 certain telephone communications from a certain definition of “electronic
5 communication”; prohibiting the admissibility of the contents of an intercepted
6 electronic communication or information derived from an intercepted electronic
7 communication as evidence in certain proceedings under certain circumstances;
8 providing that an electronic communication that was intercepted in the
9 violation of certain provisions of law may be admissible in certain proceedings
10 under certain circumstances; and generally relating to the admissibility of
11 evidence and intercepted electronic communications.

12 BY repealing and reenacting, without amendments,
13 Article – Courts and Judicial Proceedings
14 Section 10–401(11)
15 Annotated Code of Maryland
16 (2006 Replacement Volume and 2007 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 10–405
20 Annotated Code of Maryland
21 (2006 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Courts and Judicial Proceedings**

4 10–401.

5 As used in this subtitle the following terms have the meanings indicated:

6 (11) (i) “Electronic communication” means any transfer of signs,
7 signals, writing, images, sounds, data, or intelligence of any nature transmitted in
8 whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical
9 system.

10 (ii) “Electronic communication” does not include:

11 1. ~~The radio portion of a cordless telephone~~
12 ~~communication that is transmitted between the cordless telephone handset and the~~
13 ~~base unit;~~

14 ~~2.~~ Any wire or oral communication;

15 ~~3.~~ 2. Any communication made through a tone-only paging
16 device; or

17 ~~4.~~ 3. Any communication from a tracking device.

18 10–405.

19 (a) Except as provided in subsection (b) of this section, whenever any [wire
20 or oral] **WIRE, ORAL, OR ELECTRONIC** communication has been intercepted, no part
21 of the contents of the communication and no evidence derived therefrom may be
22 received in evidence in any trial, hearing, or other proceeding in or before any court,
23 grand jury, department, officer, agency, regulatory body, legislative committee, or
24 other authority of this State, or a political subdivision thereof if the disclosure of that
25 information would be in violation of this subtitle.

26 (b) If any [wire or oral] **WIRE, ORAL, OR ELECTRONIC** communication is
27 intercepted in any state or any political subdivision of a state, the United States or
28 any territory, protectorate, or possession of the United States, including the District of
29 Columbia in accordance with the law of that jurisdiction, but that would be in
30 violation of this subtitle if the interception was made in this State, the contents of the
31 communication and evidence derived from the communication may be received in
32 evidence in any trial, hearing, or other proceeding in or before any court, grand jury,
33 department, officer, agency, regulatory body, legislative committee, or other authority
34 of this State, or any political subdivision of this State if:

1 (1) At least one of the parties to the communication was outside the
2 State during the communication;

3 (2) The interception was not made as part of or in furtherance of an
4 investigation conducted by or on behalf of law enforcement officials of this State; and

5 (3) All parties to the communication were co-conspirators in a crime of
6 violence as defined in § 14-101 of the Criminal Law Article.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.